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	INL-00	USNW-00	DODE-00	DOEE-00	WHA-00	SRPP-00	DS-00
	EB-00	EUR-00	OIGO-00	VC-00	H-01	TEDE-00	INR-00
	IO-00	L-00	VCE-00	AC-01	DCP-01	NSAE-00	OIC-02
	OMB-01	OPIC-01	PA-00	PC-01	PM-00	PRS-00	ACE-00
	P-00	SP-00	SSO-00	SS-00	STR-00	TRSE-00	USIE-00
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FM AMEMBASSY HARARE
TO SECSTATE WASHDC PRIORITY 0825
INFO NSC WASHDC PRIORITY
SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
AMEMBASSY OTTAWA
AMEMBASSY KINGSTON
AMEMBASSY NAIROBI

C O N F I D E N T I A L SECTION 01 OF 04 HARARE 000268

SIPDIS

NSC FOR SENIOR AFRICA DIRECTOR JENDAYI FRAZER
LONDON FOR CHARLES GURNEY
PARIS FOR CHARLES NEARY
NAIROBI FOR TERRY PFLAUMER

E.O. 12958: DECL: 01/29/12

TAGS: [PGOV PHUM ZI](#)

SUBJECT: ZIMBABWE PUBLIC ORDER AND SECURITY ACT GRANTS
POLICE SWEEPING POWERS

REF: 01 HARARE 3813

CLASSIFIED BY POLITICAL OFFICER TODD FAULK FOR REASONS:
1.5 (B) AND (D).

1. (C) SUMMARY: ON JANUARY 11, THE PARLIAMENT OF ZIMBABWE PASSED THE DRACONIAN PUBLIC ORDER AND SECURITY ACT (POSA), WHICH WAS GAZETTED AND WENT INTO EFFECT ON JANUARY 22. THE POSA REPLACES THE EQUALLY DRACONIAN LAW AND ORDER MAINTENANCE ACT (LOMA), LEGISLATION THAT WAS ORIGINALLY ENACTED BY THE COLONIAL REGIME IN THE EARLY 1960S. THE POSA'S MOST EGREGIOUS PROVISIONS MAKE "INSULTING THE PRESIDENT" A CRIMINAL OFFENSE, GRANT THE POLICE WIDE POWERS TO REGULATE AND BAN PUBLIC GATHERINGS, AUTHORIZE THE POLICE TO USE LETHAL FORCE TO BREAK UP PUBLIC GATHERINGS, REQUIRE ALL PERSONS IN ZIMBABWE TO CARRY IDENTITY DOCUMENTS, AND GRANT THE POLICE POWERS TO SEARCH PERSONS AND SEIZE PROPERTY WITHOUT WARRANTS. ENACTED TO SUPPRESS ANY DISSENT ARISING FROM THE MARCH PRESIDENTIAL ELECTION, THE POSA IS ALREADY BEGINNING TO AFFECT CIVIL LIBERTIES IN ZIMBABWE. END SUMMARY.

2. (U) IN THE EARLY MORNING HOURS OF JANUARY 11, AFTER 15 HOURS OF CONTINUOUS DEBATE, THE ZIMBABWE PARLIAMENT PASSED THE PUBLIC ORDER AND SECURITY ACT (POSA), ALONG WITH THE GENERAL LAWS AMENDMENTS ACT, WHICH AMENDS THE ELECTORAL ACT (TO BE REPORTED SEPTEL). THE POSA WENT
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INTO EFFECT ON JANUARY 22 AFTER IT WAS SIGNED BY PRESIDENT MUGABE AND GAZETTED THE SAME DAY. THE POSA REPLACES THE COLONIAL-ERA LAW AND ORDER AND MAINTENANCE ACT (LOMA), WHICH THE RHODESIAN REGIME HAD PASSED TO SUPPRESS BLACK NATIONALISM. SOME CIVIL SOCIETY GROUPS BLASTED THE POSA AS MORE DRACONIAN THAN THE LOMA OR SECURITY LEGISLATION UNDER THE APARTHEID REGIME IN SOUTH AFRICA. LEGAL RIGHTS GROUPS SAY THE POSA LEAVES SO MUCH ROOM FOR INTERPRETATION IN MANY AREAS THAT IT GIVES POLICE AND GOVERNMENT OFFICIALS CARTE BLANCHE IN ARRESTING AND PROSECUTING ALMOST ANYONE OPPOSED TO GOZ POLICIES.

3. (U) THE POSA IS DIVIDED INTO SIX PARTS, WHICH IN TURN ARE SUBDIVIDED INTO A TOTAL OF 46 SECTIONS. DESCRIBED BELOW ARE THE MOST WORRISOME SECTIONS, THE PRINCIPAL OFFENSES AND THEIR ASSOCIATED PUNISHMENTS:

PART II: OFFENSES AGAINST GOVERNMENT AND SECURITY

SECTION 6: ACTS OF INSURGENCY, BANDITRY, SABOTAGE OR
TERRORISM DEFINED AS KILLING OR INJURING ANOTHER PERSON,
DAMAGING PROPERTY, INFLECTING FINANCIAL LOSS,

OBSTRUCTING FREE MOVEMENT, OR DISRUPTING AN ESSENTIAL SERVICE FOR THE PURPOSE OF CAUSING AN INSURRECTION OR FORCIBLE RESISTANCE TO THE GOVERNMENT OR DEFENSE FORCES. ACTS UNDER THIS SECTION THAT CAUSE THE DEATH OF A PERSON ARE PUNISHABLE BY DEATH OR LIFE IMPRISONMENT; ALL OTHER CASES ARE PUNISHABLE BY LIFE IMPRISONMENT.

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SECTION 7: RECRUITING, TRAINING OR ENCOURAGING THE TRAINING OF PERSONS FOR ACTS OF INSURGENCY, BANDITRY, SABOTAGE OR TERRORISM; PUNISHABLE BY LIFE IMPRISONMENT.

SECTIONS 9-10: SUPPLYING WEAPONRY TO INSURGENTS, BANDITS, SABOTEURS OR TERRORISTS; PUNISHABLE BY LIFE IMPRISONMENT. IT SHALL BE PRESUMED THAT ANYONE FOUND IN POSSESSION OF WEAPONRY THAT CANNOT BE ACCOUNTED FOR BY PERSONAL USE ALONE INTENDED TO USE THE WEAPONS FOR INSURGENCY, BANDITRY, SABOTAGE OR TERRORISM UNLESS PROVEN OTHERWISE.

SECTION 11: HARBORING, CONCEALING OR FAILING TO REPORT AN INSURGENT, BANDIT, SABOTEUR OR TERRORIST; PUNISHABLE BY A FINE AND/OR UP TO 10 YEARS IMPRISONMENT.

SECTION 12: CAUSING OR ATTEMPTING TO CAUSE "DISAFFECTION" AMONG THE POLICE OR DEFENSE FORCES BY INDUCING A BREACH OF LOYALTY OR DISCIPLINE; PUNISHABLE BY A FINE AND/OR UP TO TWO YEARS IMPRISONMENT.

SECTION 14: A REGULATING AUTHORITY IN ITS POLICE DISTRICT MAY BAN FOR UP TO THREE MONTHS THE CARRYING (EITHER PUBLICLY OR CONCEALED) OF ANY WEAPON, INCLUDING AXES AND KNIVES, IF IT FEELS IT IS LIKELY TO CAUSE

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FM AMEMBASSY HARARE
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C O N F I D E N T I A L SECTION 02 OF 04 HARARE 000268

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SUBJECT: ZIMBABWE PUBLIC ORDER AND SECURITY ACT GRANTS
POLICE SWEEPING POWERS

"PUBLIC DISORDER OR A BREACH OF THE PEACE." A POLICE OFFICER MAY SEIZE ANY SUCH WEAPON WITHOUT WARRANT. DEFYING THE ABOVE ORDERS IS PUNISHABLE BY A FINE AND/OR SIX MONTHS IMPRISONMENT.

SECTION 15: PUBLISHING OR COMMUNICATING TO ANY OTHER PERSON FALSE STATEMENTS "PREJUDICIAL TO THE STATE" WITH THE INTENTION OR RISK OF PROMOTING PUBLIC DISORDER; ENDANGERING PUBLIC SAFETY; ADVERSELY AFFECTING THE DEFENSE OR ECONOMIC INTERESTS OF ZIMBABWE; UNDERMINING PUBLIC CONFIDENCE IN A LAW ENFORCEMENT AGENCY, THE PRISON SERVICE OR DEFENSE FORCES; OR DISRUPTING AN ESSENTIAL SERVICE. PUNISHABLE BY A FINE AND/OR UP TO FIVE YEARS IMPRISONMENT.

SECTION 16: PUBLICLY OR INTENTIONALLY MAKING A FALSE STATEMENT ABOUT THE PRESIDENT THAT "ENGENDERS FEELING OF HOSTILITY TOWARDS OR CAUSES HATRED, CONTEMPT OR RIDICULE

OF" THE PRESIDENT OR MAKING ANY "ABUSIVE, INDECENT,
OBSCENE OR FALSE STATEMENTS" ABOUT THE PRESIDENT.
PUNISHABLE BY A FINE OR UP TO ONE YEAR IMPRISONMENT.

PART III: OFFENSES AGAINST PUBLIC ORDER

SECTIONS 17-19: DISTURBING THE PEACE, SECURITY OR ORDER
OF THE PUBLIC; THROWING STONES, ARTICLES OR MISSILES
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LIKELY TO CAUSE DAMAGE AT ANY PERSON OR PIECE OF
PROPERTY; OR ORGANIZING GATHERINGS CONDUCIVE TO RIOTS,
DISORDER OR INTOLERANCE OF PARTICULAR RACIAL OR ETHNIC
GROUPS. PUNISHABLE BY A FINE AND/OR UP TO 10 YEARS
IMPRISONMENT.

SECTIONS 20-21: ASSAULTING OR RESISTING A POLICE OFFICER
IN THE COURSE OF HIS DUTY; PUNISHABLE BY A FINE OR UP TO
10 YEARS IMPRISONMENT. PUBLICLY MAKING A FALSE
STATEMENT ABOUT A POLICE OFFICER THAT RISKS ENGENDERING
FEELINGS OF HOSTILITY, CONTEMPT, RIDICULE OR DISESTEEM
TOWARDS THE POLICE OFFICER OR POLICE FORCE; PUNISHABLE
BY A FINE AND/OR UP TO TWO YEARS IMPRISONMENT.

SECTION 22: THREATENING OR INFLECTING HARM TO INDUCE
ANOTHER PERSON TO DO SOMETHING HE IS NOT LEGALLY OBLIGED
TO DO FOR THE PURPOSE OF FURTHERING A POLITICAL
OBJECTIVE. PUNISHABLE BY A FINE AND/OR FIVE YEARS
IMPRISONMENT.

PART IV: RESTRICTIONS ON PUBLIC GATHERINGS

SECTION 24: ANY ORGANIZER OF A PUBLIC GATHERING OF A
POLITICAL NATURE MUST GIVE AT LEAST FOUR DAYS' WRITTEN
NOTICE OF THE GATHERING TO THE REGULATING AUTHORITY FOR
THE AREA IN WHICH THE GATHERING IS TO BE HELD. (NOTE:
THE NUMBER OF DAYS WAS REDUCED FROM SEVEN TO FOUR AFTER
AN AMENDMENT WAS PROPOSED BY MDC MP DAVID COLTART DURING
THE SECOND READING OF THE BILL. END NOTE.)
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SECTION 25: A REGULATING AUTHORITY MAY PRESCRIBE THE
TIME THE GATHERING MAY COMMENCE AND ITS MAXIMUM
DURATION; PROHIBIT THE LOCATION OF THE GATHERING IN
CERTAIN PUBLIC PLACES; PRESCRIBE THE ROUTE TO BE TAKEN
BY ANY PROCESSION; AND REQUIRE THE ORGANIZER TO APPOINT
MARSHALS TO ASSIST IN MAINTAINING ORDER. A POLICE
OFFICER MAY ORDER PERSONS TAKING PART IN THE GATHERING
TO DISPERSE IF ANY DIRECTION IS VIOLATED OR HE BELIEVES
THAT PUBLIC ORDER WOULD BE ENDANGERED IF THE GATHERING
CONTINUED. FAILING TO COMPLY IS PUNISHABLE BY A FINE
AND/OR UP TO SIX MONTHS IMPRISONMENT.

SECTION 26: A REGULATING AUTHORITY MAY PROHIBIT, BY
GIVING THE ORGANIZER WRITTEN NOTICE, ANY GATHERING THAT
IT BELIEVES MAY RESULT IN PUBLIC DISORDER. THE
ORGANIZER MAY APPEAL TO THE MINISTER OF HOME AFFAIRS.
ANY PERSON WHO FAILS TO COMPLY WITH THE ORDER MAY BE
PUNISHED BY A FINE OR UP TO SIX MONTHS IMPRISONMENT.

SECTION 27: A REGULATING AUTHORITY, IF IT BELIEVES
ACTIONS UNDER SECTIONS 25 AND 26 WILL NOT PREVENT PUBLIC
DISORDER, MAY BAN ALL PUBLIC DEMONSTRATIONS WITHIN ITS
JURISDICTION FOR UP TO ONE MONTH BY ISSUING A NOTICE IN
THE GOVERNMENT GAZETTE OR A LOCAL NEWSPAPER. (NOTE: THE
MAXIMUM LENGTH OF THE BAN WAS REDUCED FROM THREE MONTHS

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C O N F I D E N T I A L SECTION 03 OF 04 HARARE 000268

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TO ONE MONTH AFTER THE MDC INTRODUCED AN AMENDMENT IN
PARLIAMENT AND THE MINISTER OF HOME AFFAIRS AGREED TO
IT. END NOTE.) ANYONE AGGRIEVED BY THE DECISION MAY
APPEAL TO THE MINISTER OF HOME AFFAIRS. THOSE DEFYING
THE BAN MAY BE PUNISHED BY A FINE OR UP TO ONE YEAR
IMPRISONMENT.

SECTION 29: A POLICE OFFICER MAY DISPERSE OR APPREHEND
ANY PERSON HOLDING AN UNLAWFUL PUBLIC GATHERING. IF THE
PERSON RESISTS THE POLICE OFFICER AND THE POLICE OFFICER
KILLS THAT PERSON IN AN ATTEMPT TO OVERCOME THAT
RESISTANCE, THE KILLING SHALL BE LAWFUL.

SECTION 31: DISRUPTING A PUBLIC GATHERING BY ENGAGING IN
DISORDERLY CONDUCT OR BEHAVING IN A THREATENING, ABUSIVE
OR INSULTING MANNER; PUNISHABLE BY A FINE AND UP TO TWO
YEARS IMPRISONMENT.

PART V: ENFORCEMENT OF PUBLIC ORDER

SECTION 32: ALL PERSONS, INCLUDING VISITORS, 16 YEARS OF
AGE OR OLDER, MUST CARRY AT ALL TIMES WHILE IN A PUBLIC
PLACE AN IDENTITY DOCUMENT THAT INCLUDES NATIONAL
IDENTITY CARDS. IN THE CASE OF VISITORS, ENTRY
CERTIFICATES, OR PASSPORTS OR DRIVER'S LICENSES ISSUED
BY A FOREIGN GOVERNMENT, WILL SUFFICE. A POLICE OFFICER
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MAY ASK TO SEE AN IDENTITY DOCUMENT AT ANY TIME. IF THE
INQUIRING POLICE OFFICER IS INVESTIGATING A CRIME, AT A
CRIME SCENE, WITHIN A POLICE CORDON, AT A POLICE
ROADBLOCK OR AT A PUBLIC GATHERING OF A POLITICAL
NATURE, AND A PERSON FAILS TO PRESENT AN ID UPON
REQUEST, THAT PERSON MAY BE DETAINED UNTIL THEIR
IDENTITY IS ESTABLISHED. IN ALL OTHER CASES, ANYONE WHO
IS FOUND WITHOUT AN ID SHALL BE GIVEN SEVEN DAYS TO
PRESENT A SUITABLE ID DOCUMENT AT A SPECIFIED POLICE
STATION; FAILING THIS, THAT PERSON WILL BE DETAINED
UNTIL THEIR IDENTITY IS ESTABLISHED. NO PUNISHMENT IS
SPECIFIED FOR FAILING TO PRODUCE AN ID.

SECTION 33: A POLICE OFFICER ABOVE THE RANK OF INSPECTOR
MAY ESTABLISH A CORDON AROUND ANY AREA IN WHICH PUBLIC
VIOLENCE IS OCCURRING. ANYONE ENTERING OR LEAVING THIS
CORDON WITHOUT WRITTEN PERMISSION WILL BE SUBJECT TO A
FINE AND SIX MONTHS IMPRISONMENT. A POLICE OFFICER MAY
SEARCH AND ARREST, WITHOUT A WARRANT, ANY PERSON WITHIN
THE CORDON.

SECTIONS 35 AND 36: A POLICE OFFICER MAY STOP AND
SEARCH, WITHOUT A WARRANT, ANY PERSON, VEHICLE OR
AIRCRAFT ENTERING OR LEAVING ZIMBABWE, OR ANY PERSON OR
VEHICLE APPROACHING A POLICE ROADBLOCK. IN THE COURSE
OF SUCH A SEARCH, THE POLICE OFFICER MAY SEIZE ANY THING
WITHOUT A WARRANT. ANYONE FAILING TO STOP OR SUBMIT TO
A SEARCH MAY BE PUNISHED BY A FINE OR UP TO ONE YEAR
IMPRISONMENT.

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PART VI: GENERAL PROVISIONS

SECTION 37: THE MINISTER OF HOME AFFAIRS, WHO OVERSEES
ALL LOCAL AUTHORITIES, MAY REQUEST THE ASSISTANCE OF THE
DEFENSE FORCES IN "SUPPRESSING ANY CIVIL COMMOTION OR
DISTURBANCE IN ANY POLICE DISTRICT."

SECTION 40: MAGISTRATES ARE GIVEN SPECIAL JURISDICTION
IN CASES PROSECUTED UNDER THE ACT AND CAN, IN SUMMARY
TRIALS, IMPOSE FINES LARGER THAN THEIR NORMAL

JURISDICTION AND IMPOSE PRISON SENTENCES LONGER THAN THEIR NORMAL JURISDICTION, UP TO 15 YEARS.

SECTION 43: THE MINISTER OF HOME AFFAIRS MAY DEPRIVE THE CITIZENSHIP OF ANYONE CONVICTED UNDER THE ACT AND SENTENCED TO ONE YEAR IMPRISONMENT OR LONGER.

SECTION 44: ANYONE ARRESTED WITHOUT WARRANT AND CHARGED UNDER THE ACT WITHIN 48 HOURS WILL BE HELD IN CUSTODY FOR SEVEN DAYS WITHOUT BAIL.

14. (C) ENACTED TO SUPPRESS ANY DISSENT ARISING FROM THE MARCH PRESIDENTIAL ELECTION, THE POSA IS ALREADY BEGINNING TO AFFECT CIVIL LIBERTIES IN ZIMBABWE. ON JANUARY 28, POLICE IN HARARE REPORTEDLY BANNED THE

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CARRYING OR DISPLAY OF TRADITIONAL WEAPONS, NAMELY MACHETES, KNOBKERRIES, SWORDS, KNIVES AND DAGGERS, UNDER SECTION 14 OF THE POSA. IN ADDITION, ON JANUARY 24, THE OWNER OF A POPULAR HARARE GATHERING SPOT REPORTEDLY CANCELED THE MEETING OF A HUMAN RIGHTS GROUP ON HIS PROPERTY BECAUSE IT POTENTIALLY COULD BE CONSTRUED BY THE POLICE AS A POLITICAL MEETING. A PROMINENT ZIMBABWEAN ATTORNEY AND MEMBER OF THE CRISIS IN ZIMBABWE TASK FORCE RECENTLY EXPRESSED HIS CONCERN TO US THAT THE POSA WAS PASSED NOT ONLY TO HELP THE GOZ WIN THE ELECTION, BUT TO KEEP IT IN POWER LONG AFTER.

15. (C) COMMENT: ALTHOUGH THE POSA INCORPORATES A FEW MARGINAL IMPROVEMENTS OVER ITS LOMA PREDECESSOR, SUCH AS REMOVING PROVISIONS AGAINST MAKING SUBVERSIVE STATEMENTS AND THE POLICE AUTHORITY TO IMPOSE CURFEWS, ON THE WHOLE THE POSA IS A STEP BACKWARD FOR CIVIL LIBERTIES AND HUMAN RIGHTS. IT IS IRONIC THAT MANY OFFENSES DESCRIBED UNDER THE NEW LAW, PARTICULARLY ONE AGAINST INTIMIDATION UNDER SECTION 22, HAVE BEEN COMMITTED WITH IMPUNITY BY WAR VETERANS, ZANU-PF MILITIA AND GOVERNMENT OFFICIALS. THE POSA COULD ACTUALLY BE USED TO REIN IN AND PROSECUTE THE PERPETRATORS OF THE RULING PARTY'S CAMPAIGN OF VIOLENCE IF THE POLICE WERE ALLOWED TO DO THEIR JOBS. HOWEVER, WITH LAW ENFORCEMENT INCREASINGLY ONE-SIDED, WE FULLY EXPECT THE NEW LAW TO BE USED ALMOST SOLELY AGAINST SUPPORTERS OF THE OPPOSITION. END COMMENT.

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